

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VINCENT DANIEL HOPPER,
Plaintiff,

v.

JOHN DOE MYERS RECREATIONAL
COACH NORTHWEST DETENTION
CENTER *et al.*,
Defendants.

Case No. C05-5680RBL

REPORT AND
RECOMMENDATION

**NOTED FOR:
DECEMBER 8TH, 2006**

This Bivens action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is a motion to dismiss filed by defendants Myers, Wigen, "Moncivais", "McHatton" and Cheek (Dkt. # 111). The operative complaint listed defendant Moncivais as Montevise and defendant McHatton as McHampton. Plaintiff does not oppose dismissal of these defendants and has in fact filed a separate motion to dismiss them (Dkt. # 126).

As both parties agree dismissal of these defendants is proper, the court recommends these defendants be **DISMISSED WITH PREJUDICE**. The court believes this leaves the sole remaining defendant as Michael

1 Melendez and the only remaining issue is the sufficiency of the telephone system. A proposed order
2 accompanies this Report and Recommendation.

3 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
4 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
5 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v
6 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
7 set the matter for consideration on **December 8th, 2006**, as noted in the caption.

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9 DATED this 16th day of November, 2006.

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11 /s/ J. Kelley Arnold
12 J. Kelley Arnold
13 United States Magistrate Judge
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